



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES APRIL 8, 2003

SPECIAL MEETING/WORKSHOP:

Chair Acevedo called the workshop to order at 6:15 p.m., with Commissioners Benich, Engles and Lyle present. PM Rowe was present as staff. Commissioner Mueller arrived at 6:30 p.m. Commissioner Escobar was excused due to conflict of interest, and Commissioner Weston was absent because of illness.

Discussion centered on the Commissioner's 1-point award in the Quality of Construction category. Following submission of the Commissioner's score sheets, correction of math errors, and adjustments in scoring, PM Rowe was directed to tally the scores and prepare a ranked order of projects resultant from the scoring to be presented at the commencement of the regular meeting. Discussion then turned to allotments for FY 2004-05 and the Measure P allotment for FY 2005-06.

The workshop was recessed at 6:46 p.m., with the Chair Acevedo announcing that the discussion of Review of Final Measure P Applications for FY 2004-05 Open Market Competition would continue at the beginning of the regular meeting.

REGULAR MEETING:

PRESENT: Acevedo, Benich, Engles, Lyle, Mueller

ABSENT: Weston

LATE: Escobar (due to a conflict of interest; he joined the meeting at 7:40 p.m.)

STAFF: Planning Manager (PM) Rowe, Associate Planner (AP) Tolentino, Senior Engineer (SE) Creer and Minutes Clerk Johnson

Chair Acevedo called the meeting to order at 7:04 p.m.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Acevedo opened the public hearing.

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With no one present wishing to address matters not appearing on the agenda, the public hearing was closed.

MINUTES:

March 18, 2003

COMMISSIONERS MUELLER/LYLE MOTIONED TO APPROVE

THE MARCH 18, 2003 MINUTES WITH THE FOLLOWING AMENDMENTS:

Page 10; last paragraph: (add before *Vice Chair Mueller....*) Responding to a question as to why schools are not required to address issues of parking, circulation, traffic, etc. with the Planning Commission

THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR, WESTON.

March 25, 2003

WILL BE CONSIDERED AT THE NEXT MEETING.

NEW BUSINESS:

1. REVIEW OF FINAL MP APPLICA- TIONS FOR FY 2004-05 OPEN MARKET COMPETITION

PM Rowe reported on the discussion at the workshop earlier in the evening. He presented the scoring of the 1-point in the Quality of Construction category that the Commissioners had awarded the various projects based on criteria determined during previous meetings.

PM Rowe presented those Open Market projects in the scoring as follows:

TOP SCORING PROJECTS

EAST SIDE

Project	Score
MP-02-19: Warmington	184
MP-02-25: Central Park	183
MP-02-15: Mission Ranch	181
MP-02-12: Lupine	181
MP-02-07: San Pedro Partners	180
MP-02-14: Coyote Estates	179.5
MP-02-22: Odishoo	178.5

WEST SIDE

MP-02-24: Quail Creek	179
MP-02-03: Shea Homes	171.5

SMALL PROJECTS

MP-02-20: Ditri	171
MP-02-10: Borello	170
MP-02-17: Gera	170

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PM Rowe continued by noting that there were 164 allocations which can be divided among the projects. He noted that there are six partially completed projects and explained the projects which had been awarded allocations 'borrowing' from future years. PM Rowe also reviewed the various categories which receive allocations (open market, affordable, micro, below market rate, East/West split, etc) and the number of allocations available in those categories. He again stressed that some of the unit/allocations had already been awarded.

Commissioners discussed the (informal) policy of awarding 50% of the allocations requested during the first year of a project. The discussion evolved to the numbers of allocations (approximately 110) available based on population numbers. It was stated that the numbers might be adjusted based on the figures received from the CA Department of Finance.

Chair Acevedo opened the public hearing.

George Gera, 13265 Uvas Rd., spoke with the Commissioners regarding MP-02-17, indicating that he didn't need more than one-half the allocations he had requested as he already had the improvements required for the project under consideration. He said that his project is one of three 'in the running' in the small projects category and the only one which represents 'true infill'. Mr. Gera said that if the one-point Commissioner's award hinged on being a builder with a 'track record' in Morgan Hill, he certainly qualified. Commissioners assured Mr. Gera that the track record issue was part of the consideration, but not the determining factor.

Commissioner Lyle asked Scott Schilling why he had requested 10 the first year with the remaining in the second year? Mr. Schilling responded that he had made an assumption that there would not be enough allocations, so he geared his application as such. He explained that in any given year he could use 10 – 20 allocations, and would appreciate what the Commissioners decided.

Carolyn Kammerer, 3160 Crow Canyon Place, #200, San Ramon, representing Warmington Homes, indicated the company's continuing commitment to the development being worked on. She said the company would appreciate having 30 allocations this year and with the remaining 6 the second year, which would finish the project.

Bill McClintock, PO Box 1029, spoke on MP-02-20 (Ditri), saying that the project should get six allocations. Commissioner Lyle agreed.

The public hearing was closed, as no others indicated a wish to speak to the matter.

PM Rowe explained the requests originally received on the applications by the developers.

Chair Acevedo stated that MP-02-12 (Lupine) had asked for 15 – 20 allocations, inquiring as to the minimum number acceptable?

Commissioner Lyle suggested MP-02-12 (Lupine) should be given a smaller number of

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allocations to begin.

Commissioners discussed the on-going projects, the levels/stages of completion of each, and the numbers of allocations needed for conclusion.

PM Rowe said that at present, with the allocations available, three projects (Central Park, Warmington & Quail Creek) are in a position to be concluded.

Commissioner Lyle stated his recommendation for allocations:

Central Park 19 ~~or 20~~

Warmington 30 (with 6, 2nd year)

Mission Ranch 11

Lupine 10 or 11

Commissioner Lyle commented that in dealing with the 2nd year allocations the City may run into problems.

PM Rowe told Commissioners that if Mission Ranch received a lesser number of allocations than requested, it might present problems for the developer. He also reminded that the objective of the City has been to see that on-going projects are completed.

Commissioner Benich offered his opinion that the high scoring projects should be rewarded.

Commissioner Mueller said the Page 4, *number* of allocations are very unbalanced.

Commissioner Lyle commented that Coyote Estates is hurting for allocations. He went on to say that the Eastside projects are rather close together point wise, so perhaps the top two should not receive so many, as this increases the spread.

Chair Acevedo reminded that the Commissioners should be working to finish off the projects.

Chair Acevedo and Commissioner Mueller agreed that it might be beneficial to return the issue to the developers to let them negotiate and return to the Commissioners with recommendations for allocation shares.

Commissioner Mueller said that the Commissioners need to look at the second year (FY 2005-06) to see how the allocations may be.

Commissioner Lyle said it is important that no new Open Market projects be given allocations (emphasizing this is his opinion). He discussed the 2nd year allocations, saying that on the east side for 2nd year, 86 allocations may be requested. He stated he thought that the top four scorers now should receive the available allocations, with no new projects being considered which will require 2nd year allocations.

Chair Acevedo indicated a willingness to hear from the developers with their recommendations and urged the Commissioners to favor this idea.

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Commissioner Mueller said his concern is that the City is trying to get a lot of current projects finished and there is no opportunity to consider new projects.

The Commissioners advised the Developers to meet and discuss the issue, returning with recommendation(s) to the Commissioners.

Commissioner Escobar joined the meeting at 7:40 p.m.

2) DA-00-01: CHRISTEPH- KOSICH

A request for approval of a development agreement for one single family home proposed in a two-lot subdivision of an approximate 1.75-acre site. The subject site is currently developed with a single-family home, and is located at 18100 Christeph Dr. in an R-1 (12,000) zoning district.

AP Tolentino presented the staff report, noting that this project has received three extensions of time. In FY 1999-2000 the applicant was awarded one building allotment in the Micro Measure P competition. The re-alignment of West Little Llagas Creek and the slope density requirements of the hillside area has resulted in numerous difficulties causing the project to require extensions, but the owner is optimistic the deadline for commencement of work is realistic. The applicant now must, in accordance with the latest extension, commence work by June 30, 2003.

Commissioner Lyle, looking at the Development Agreement on page 6, asked if the Mello-Roos requirement is still correct? Staff indicated that the provision is still valid.

Commissioner Engles said that he has been contacted by a neighboring property owner who has concerns regarding the realignment of the creek, saying he has not been involved in discussions, and is confused about methods of reimbursement for any land he may lose as a result of the relocation.

PM Rowe informed that staff has had numerous meetings with Mr. Duffy. He told of the issues with the Santa Clara Valley Water District easement, which is a major basis for the request for the extension(s). Mr. Duffy, PM Rowe said, wants the Water District to recognize the current alignments of the Creek and vacate the easement. Basically, Mr. Duffy has voiced opposition to the extension of Llagas Dr., thinking it should correspond to the easement, PM Rowe said.

As to reimbursement, PM Rowe said, the City is in the beginning processes of acquisition of land it must obtain. Mr. Duffy, he said, wants the Water District to construct to the east, but leave the easement as is, which is necessary for channel straightening.

Commissioner Mueller suggested an option on how the drainage project may be connected. He observed that the Dividend project has an oversize detention pond. "It would be better," Commissioner Mueller said, "if the waste water were to be piped to the larger detention pond rather than being released directly into the Creek."

SE Creer addressed the drainage issues in the area.

Commissioner Mueller reiterated his thought of putting the wastewater into the detention pond.

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Chair Acevedo opened the public hearing.

Amalu Hovanessian, 1822 Christeph Dr., said the area floods when it is raining. "If they plan to move the creek, I don't know where the water will be going," he said. Furthermore, Mr. Hovanessian said, even if the creek is moved, there is not enough land remaining to build a dwelling.

Bill McClintock, PO Box 1029, told Commissioners that it used to be that the Water District would allow mitigation runoff by excavating the creek; however, this is no longer true. These small projects, Mr. McClintock said, generate little runoff, promising to contact the owners of the Dividend project for mitigation as Commissioner Mueller suggested. He stated a belief that Dividend has agreements with the neighbor for improvement. Mr. McClintock said that Mr. Hovanessian's concern about there being enough land for building has no foundation, noting that the lot is in excess of 12,000 s.f.

Commissioner Lyle asked if two homes could be built on 1.75 acres? Mr. McClintock said yes, that was feasible.

With no others present to speak to the matter, the public hearing was closed.

Commissioner Mueller said he has no problem with the request for the extension of time, but remains concerned about the Stormwater mitigation. "I believe the Water District will continue to make their rules and requirements tighter and tighter," he said. Commissioner Mueller continued by leading discussion of the property north of Christeph Dr. which had recent action and the potential for agreement with the Dividend site, which he said would be a good thing.

COMMISSIONERS MUELLER/LYLE OFFERED RESOLUTION NO. 03-19, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT, DA-00-01: CHRISTEPH-KOSICH. THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, ENGLES, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: WESTON.

**3)DA-03-01:
CHRISTEPH-
KAMANGAR/
PINE BROOKS
TRUST**

A request for approval of a development agreement for a three-lot single-family residential subdivision on a 1.58-acre site located south of Llagas Rd., between Hale Ave. and Waugh Dr., at 18200 Christeph Dr. in an R-1 (20,000) zoning district. Approval of the development agreement would extend the timeline for final map approval by one year.

PM Rowe presented the staff report, saying this project has a 'long history' beginning with the project originally submitted to the City for processing in January 1990. He then outlined the various occurrences and time frames which the City and the developer have worked through, including re-submittal of the Final Map ten or more times. Ownership of the property changed in January, 2003, he said. Also, PM Rowe continued, several extensions have been granted for the project. Originally, this project received allocations under Measure E as a Vesting Tentative Map. Recent meetings between the City and the property owner have resulted in agreement for closure; this action would accomplish that goal. PM Rowe reported the City Attorney is recommending action because of the uncertainty of whether the map has expired, and this development agreement, which will

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be effective for one year, will resolve the issue.

Commissioner Lyle inquired as to the confusion regarding the expiration of the tentative map? PM Rowe responded that the development agreement the Commissioners are considering sets an 'end time' of one year from now for commencement of the development.

Commission Benich asked, why – since the project was started in 1990 – there had been no activity for the immediate past five years? PM Rowe reported that the owner of record said there was activity with the Water District as well as environmental/biological issues activity.

Responding to a question from Commissioner Benich, PM Rowe explained that the City Attorney has recommended the request/action before the Commission to establish certainty as to the expiration date of the approval, should the map not record.

Commissioner Mueller asked what language the City Attorney proposed? PM Rowe directed attention to a non-extension clause contained in Exhibit B of the Development on page 12.

Commissioner Engles asked about the road alignment and recorded easements. PM Rowe described the Water District easement and neighboring properties that the road alignment requires, saying that the developer will bear in the cost of street improvements. PM Rowe said that neighboring property owner have been contacted regarding upgrading the half street, but have indicated non-interest in a project.

Commissioners discussed the need for confirmation of a final filing date, asking how long before the final filing date all approvals must be obtained? SE Creer responded that the approvals must be in hand at least two weeks before the final filing date.

Commissioner Mueller pointed out that Exhibit B required all items (*final* documents) ~~must be completed~~ *delivered* by April 15, 2004.

Chair Acevedo opened the public hearing.

Amalu Hovanessian, 1822 Christeph Dr., repeated his concerns about how the area floods when it is raining. Additionally, Mr. Hovanessian said, the land is a triangular lot and there are setbacks which must be considered.

Commissioner Engles mentioned his understanding of a temporary channel for the creek while the houses are being constructed.

Mr. Hovanessian said he thought the area was home to an endangered frog.

PM Rowe saying all concerned were hopeful of a positive resolution, adding that if the development agreement is not completed within the one-year, the owner understands that he must start over with the whole map process.

Commissioner Mueller explained the zoning density in the area, including the setback requirements.

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The public hearing was closed, as there were no others to address the matter.

Commissioner Mueller said he has no problem with the request, so long as it is actually completed by April 15, 2004.

Commissioner Engles said that if the neighbors are made part of the process, the development will go more smoothly.

PM Rowe remarked that the developer understands his responsibilities for completion within the one-year limit.

COMMISSIONERS MUELLER/ESCOBAR OFFERED RESOLUTION 03-18, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT DA-03-01: CHRISTEPH-KAMANGAR, ADDING THE FOLLOWING LANGUAGE TO EXHIBIT B ON PAGE 12 OF THE DEVELOPMENT AGREEMENT: "ALL FINAL DOCUMENTS MUST BE DELIVERED TO THE CITY BY APRIL 15, 2004." THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, ENGLES, MUELLER; NOES: LYLE; ABSTAIN: NONE; ABSENT: WESTON.

Chair Acevedo announced that items 5 and 6 would be taken at this point, and agenda item 4 would be considered following those.

**5)DA-02-09:
DEWITT-
MARQUEZ**

A request for approval of a development agreement for a five-lot single-family residential subdivision on a 2-acre site located on the west side of Dewitt Avenue between Oak Park Drive and Spring Drive, approximately 1000 feet south of Dunne Avenue in an R-1 (12,000) zoning district. Approval of the development agreement would extend the deadline for Final Map submittal to September 1, 2003.

PM Rowe presented the staff report, noting that the environmental analysis required for submittal by February 1, 2003 is underway at this time. He noted that the applicant has requested that the Development Agreement be reviewed at this time in order to establish a revised project development schedule, specifically requesting that Exhibit B permit the additional time needed. PM Rowe called attention to paragraph 14, containing specific commitments. He noted that the Commissioners had recently dealt with 'zoning cleanups' in the area, saying that this project is part of a larger RPD, which was put into place in 1996 following lengthy hearings. PM Rowe explained the access and sizes of lots in relation to Price Ct. and the compatibility to neighboring subdivisions. SE Creer commented on traffic circulation and efficiency. PM Rowe spoke on zoning transition, noting this project is consistent with RPD requirements. He reminded Commissioners that now they are dealing with a document which has an established time/dead line.

Chair Acevedo opened the public hearing.

Michelle Schwartz, 16850 Price Ct., express concern about the extension of Price Dr. to DeWitt, saying that the residents on Price and John Telfer are opposed to the request, adding 'none of the residents want an extension of the road'. Ms. Schwartz said she has lived there for 15 years and cannot stress enough the concern of the street connections.

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Judy Schatz, 16905 Price Ct., referenced the 'terrible fire' of 1988 where there was no problems with access for emergency vehicles.

Cynthia Bunch (no address given), said that in 1992 the area homeowners, developers, and Planning Commissioners had met regarding agreement of a residential cul de sac off DeWitt Ave. Ms. Bunch stressed the safety issues, saying that the traffic needs to be lessened, as there are no sidewalks nor grading to the driveways.

Paul Conti, 16955 John Telfer Dr., pointed to the turn in the road where his driveway entrance is, saying the development proposed will bring more problems to the sweeping turn which narrows at his driveway. He spoke directly to the ingress/egress issues at the site.

Doug Bennett, 16969 John Telfer Dr., said he is opposed to action on the development, citing the issues of John Telfer being narrow, lack of sidewalks, and – most importantly, he said – is the hill not being stable. Mr. Bennett indicated that the will be playing at the 'toe of the hill, increasing grading issues, slippage of the hills in an already unstable area'.

Patricia Possley (no address given) spoke of the concerns she have regarding the excavation below her dwelling, saying the developer has told her additional digging will be necessary to keep the house below her point of vision. Opposed to the extension of Price Dr., Ms. Possley said emergency access can be had with the existing routes.

David Wright, 16830 Price Dr., spoke to the fire department accessibility, explaining that he went to three fire departments, and was told at each that personnel has no issue with locked gates.

Bill McClintock, PO Box 1092, said he is here tonight to address any concerns on the development agreement the Commissioners might have. Because this project developer is behind on the filing deadline, there are repercussions on other projects. Mr. McClintock assured Commissioners that the only change in the development is the filing date of the final map. He stated that the wait now was for the \$28,000 EIR on the five lots. If this development agreement is approved, Mr. McClintock said, the tentative map will be submitted quickly. He stressed that he and the developer are willing to work with the Planning Department staff and the neighbors to produce a good project.

Chair Acevedo asked about the statements made regarding the hill(s) instability.

Mr. McClintock replied that there had been a slope study and all the lots required grading of less than 10% slope at the higher levels, and some at 20% at the back of the project where a retaining wall would be placed. He discussed the single-story home, which would be made wider instead of taller, on lot 5, noting it would have driveway access from the lower street.

Doug Bennett addressed the Commissioners again, suggesting that if the road is open through, the developer be required to obtain a 10-year bond. That way, he explained, if there is soil slippage, the residents will have some measure of protection. Mr. Bennett then said that every year or two the phone lines under the roads break, so there is a need

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to impose utilities upgrades on the developer.

Patricia Possley revealed that her retaining wall had collapsed due to soil instability, and had to be rebuilt.

With no others present indicating a wish to address the matter, the public hearing was closed.

PM Rowe shared the requirements for geotechnological issues.

SR Creer said he did not know the availability of 10-year bonds.

Commissioner Mueller asked if the area is inside the geo-hazard map?

SE Creer responded that those maps are kept in the Building Department.

Commissioner Mueller referenced the tentative map, saying issues are raised and need to be studied. He went on to clarify that if and when Santa Teresa Rd. is aligned, there will be southbound access through DeWitt. For the benefit of the audience, Commissioner Mueller explained emergency access from Spring to DeWitt. Chair Acevedo asked whose responsibility the upkeep of utilities is? SE Creer said the phone company is responsible for maintenance of their equipment – including lines under roads.

Commissioner Mueller explained utilities gridding and placement.

Commissioner Benich said he is concerned about the issues of unstable soil.

PM Rowe said that the slopes previously built on in the area probably would not be today.

COMMISSIONERS LYLE/MUELLER OFFERED RESOLUTION NO. 03-20, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT, DA-02-09 FOR MMP 02-02: DEWITT – MARQUEZ SUBDIVISION. THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, ESCOBAR, ENGLES, LYLE, MUELLER; NOES: BENICH; ABSTAIN: NONE; ABSENT: WESTON.

**6)MP-02-26:
WATSONVILLE-
SOUTH COUNTY
HOUSING**

A request for Residential Development Control System (Measure P) affordable building allocations for Fiscal Year 2004-2005. The project consists of 12 residential dwellings on a 1 acre site located on the north west corner of the intersection of Watsonville Rd. and Calle Sueno.

PM Rowe gave the staff report, saying that the project of 12-units is the only project application received in the affordable housing category. Explaining the evaluation categories on Table 2, Housing Types was corrected to 13 points, with Safety and Security being 15, for a total of 131. PM Rowe explained that one of the issues tonight is for the Commissioners to decide if the project can go forward in the competition process, in spite of the low score.

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Chair Acevedo indicated there needed to be a consensus of the Commissioners in deciding whether the project could be considered for competition with 131 points.

Chair Acevedo opened the public hearing.

Keith Golugitano, 270 Via Naretto, said if the score is based on units, no one in their area wanted the project to go through. He stated a belief that 12 units is too many for the parcel and 'would not work'.

Michael Donnelly, 15355 Calle Sueno, said that he shares the concerns of Mr. Golugitano, and is even more concerned with parking of the residents of the development.

Larry Garcia, 250 Via Naretto, indicated agreement with the two previous speakers. Andy Lutz, 240 Via Naretto, claimed that 12 units is far too many for the property. His concern, he said, is that the density mirrors that of urban areas to the north in Santa Clara County.

Mindy Zhang, 240 Via Naretto, asked Commissioners to 'go there and see for themselves that the lot is too small for such a large development', that the project is not good for the environment, and she strongly opposed the density. Ms. Zhang noted that the project is adjacent to a mushroom farm, expressing concern that operation might have environmental concerns for the development. She went on to explain that there is a 45 mph speed limit and that has caused problems with entry into her street. Ms. Zhang again encouraged Commissioners to visit and view the project site.

Commissioner Benich informed that he is frequently in the area, as he lives nearby and has often viewed the project site.

Stacey Thornburg, 245 Via Naretto, said she felt misled and was disappointed at the direction of this hearing. Ms. Thornberg indicated she had been told that Commissioners would address the issues of concern being raised. Originally, she said, neighbors had been told there would be seven units on the site, then told that the City Council was leaning toward more, and the number suddenly jumped to 12 units. Ms. Thornberg also address the issue of the speed zone, explaining that the turn for access to Via Naretto is 'difficult and dangerous'.

Ming Thang, 231 Via Naretto, said he is not happy with the proposal and is very much opposed. When he moved in, he revealed, he thought this would be a quiet area to raise a family. Twelve units would be too much, causing problems for the neighborhood. He expressed dislike for the City Council decision, saying everyone should see how small the lots are.

With no others present to speak to the matter, the public hearing was closed.

Commissioner Engles said that the main problem is that this site was supposed to be for a fire station and is now excess property for the City. He declared that using the site for affordable housing is 'not good'. Commissioner Engles went on to explain that he would like to see City staff develop a high market project, with far fewer homes. Expressing concern that the agreement with South County Housing and the City requires equity

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capping, he proposed a method of 'silent seconds' which would mean money for the City, he said. Commissioner Engles said that he had offered time and again to do a study on the feasibility of this, but there had been no takers. The major question, Commissioner Engles said, is how much money would be made available for a quality development?

Chair Acevedo reminded that the Commissioners must decide whether to evaluate the projects with the points as presented.

Commissioner Lyle said that 12 units on the site may be 'pushing it'. He and Commissioner Benich agreed that the points are valid as presented.

COMMISSIONERS LYLE/ESCOBAR OFFERED RESOLUTION NO. 03-22, ESTABLISHING RESIDENTIAL DEVELOPMENT CONTROL SYSTEM ALLOTMENTS FOR AN AFFORDABLE RESIDENTIAL PROJECT IN FISCAL YEAR 2004-05.

Chair Acevedo said that when the project was first presented, it appeared to mirror the surrounding area, then asked why it is different now?

PM Rowe said that the units, with a smaller square footage, have the appearance on the streetscape which is similar to the Rio Serreno project. He explained the location and setting of the units on the lot.

Commissioner Mueller said there is a problem: the neighbors say the project is too dense, asking when that will be addressed? PM Rowe responded that the issue had been addressed at the City Council. He further indicated that the RPD would return to the Planning Commission before being heard by the Council again. Commissioner Mueller said that before that happened, the allocations would be in place. PM Rowe pointed out that the City Council feels there is a critical need for this type of housing, citing the greater good for the public.

Commissioner Mueller said he agrees there is a need, but the problem facing the current BMR program is that the City is losing experienced workers, especially teachers and safety personnel (police and fire) because of the BMRs don't provide sufficient equity to allow buyers to move up to market rate units. "This project barely qualifies," he said, then added, "the developer is taking advantage of being the only one to have an application.

Commissioner Benich noted that there is no violation of the current zoning.

COMMISSIONERS LYLE/ESCOBAR WITHDREW THE MOTION.

PM Rowe was directed to bring an amended resolution with approval of the final score back to the next meeting, and place the matter a consent calendar.

COMMISSIONERS LYLE/ESCOBAR MOVED TO CONTINUE THE HEARING TO THE NEXT MEETING. THE MOTION PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; WESTON WAS ABSENT.

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Commissioners replied to concerns from the audience by suggesting residents contact City Council members with their thoughts.

Commissioner Mueller stressed that there would be more hearings, that the Commissioners would consider the matter at the next meeting, and the concerned residents would be notified when the subdivision request comes in to the Commissioners.

AGENDA ITEM 1 REVISITED

Chair Acevedo announced Agenda Item 1 would be revisited.

Commissioner Escobar was excused at 9:35 p.m. due to the conflict of interest.

COMMISSIONERS LYLE/MUELLER OFFERED RESOLUTION NO. 03-17, INCLUDING EXHIBITS A AND B, APPROVING FINAL PROJECT SCORES IN THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM OPEN/MARKET COMPETITION FOR THE FISCAL YEAR 2004-05 BUILDING ALLOTMENT AND THE OPEN/MARKET COMPETITION FOR THE FISCAL YEAR 2005-06 BUILDING ALLOTMENT. THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLER, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ESCOBAR, WESTON.

Commissioner Escobar rejoined the meeting at 9:36 p.m.

4)ZA-02-15: EAST DUNNE-HO

A request for approval of precise development plan and development guidelines for a 18,450 sq. ft. retail office facility to be located on a 2.35 acre area located on the north west corner of the intersection of E. Dunne Ave. and Murphy Ave. in the PUD zoning district. The proposed precise development plan and development guidelines would also apply to the developed 1.53-acre area to the west.

PM Rowe presented the staff report, saying that is part of the established plan for the PUD, extending the development to the adjacent property while using a common driveway. He noted that the concern related to this application is the presence of current fast food establishments and motels, this application would limit the numbers of further duplicate installations. The land use zoning allows a total of four eating establishments, PM Rowe said. Other issues at the intersection location include traffic and burrowing owl habitat. PM Rowe continued by calling attention to Section 6 of the development plan, saying that items 5 – 9 and 10 – 15 were duplicated, asking Commissioners to strike 10 – 15 for clarity; also item 26 of Section 6 was eliminated. On page 4 of the plan, #16 contains changes which relate to signage and do not change the land use(s); there will be two restaurant uses in the two buildings, removing duplicates uses that now are allowed. PM Rowe said that the Architectural Review Board (ARB) had approved the concepts of the buildings at their last meeting.

Commissioner Benich asked, if this is approved, as written, would it preclude the opening of a sit-down restaurant, or would that be allowed?

Commissioner Mueller explained that if one sit-down restaurant exists, another could be permitted by a conditional use permit – the idea being that there would not be too many

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of one type to go in.

Chair Acevedo inquired as to the presence of standard lease agreements.

Commissioner Mueller indicated the question is the clarification of fast food restaurants, saying that the reason for the PUD is to limit this.

PM Rowe explained that a PUD is also a function of parking requirements, and explained those requirements.

Commissioner Mueller said that a concern is that a PUD 'runs with the land', but the working here gives concern of increasing the number of fast food establishments. "There is a need to straighten the language so we are very clear about what the Planning Commission wants," Commissioner Mueller noted.

PM Rowe commented that the way the document is written, one sit-down restaurant, no more than three fast food establishments, one of which may be free standing can be allowed. He stressed this is the maximum for the fast food establishments.

Commissioner Lyle asked about the noise levels, saying the numbers presented do not balance. Staff was directed to clarify the issue. Commissioner Lyle continued by asking about the configuration of the pavement, would there be three lanes? SE Creer responded, yes, there would be lanes for a right turn, a left turn, or proceeding straight ahead.

Commissioner Engles commented on the on-going traffic study on Murphy Ave. SE Creer said he is working on that study, with the Planning Department taking the lead.

Commissioner Mueller said there were no options in the Murphy study which would impact this project, citing the figure mistakes in the study (#s 8 and 9 are duplicated – 9 is wrong).

Chair Acevedo asked why a convenience market is exclusively excluded.

PM Rowe informed it has to do with the distance to Nordstrom School.

Chair Acevedo said that by looking at the General Plan, it appeared a convenience market would be permitted.

PM Rowe explained that the distance from Nordstrom School is the determining factor. He went on to explain the requirement of putting a convenience store more than 1000 feet from a school, noting this has been in the Municipal Code more than eight years.

Chair Acevedo asked what determines the 1000 foot requirement?

Commissioner Mueller explained it is a child safety issue.

Chair Acevedo opened the public hearing.

With none present to address the matter, the public hearing was closed.

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Commissioner Mueller expressed concern about the number of changes in the design guidelines, saying now is the time to 'pin down' items. He noted that the exhibits are missing from the data, and there is a need for 'cleaned up' language for clarification. He described the ARB report as 'nebulous' and indicated there is need for 'clean up' before adoption of the guidelines. Commissioner Mueller said, "We should send clean, clean guidelines to the City Council." Continuing, Commissioner Mueller listed specific concerns of the traffic report inaccuracies, the 101 build-up and the growth rates listed here do not agree with those projected for the new Courthouse.

Commissioner Lyle said the timing of the studies (hours of the days) indicated lower than actual traffic counts. Further, he said, the traffic study should be conducted at the intersection. Commissioner Lyle said he is 'dead set against' 5 eating establishments. "From a fast food point of view, what's missing?" he asked. "The whole intersection gives a terrible introduction to the City."

Commissioner Benich asked if an office building wanted to add an ice cream shop, for example, that should be allowed. "I just don't want another franchised fast food," he said.

Chair Acevedo said he had no problem with fast foods, there is a demand for foods to go. He cited that families with two working adults and children often go to pick up food for eating at home.

PM Rowe called attention to Section 5 of the proposed resolution, specifically the inclusion of the language governing the eating establishments.

Commissioner Mueller said the language is clear: one fast food establishment in the PUD and it already exists.

Commissioner Lyle said that not many conditional use permit requests are turned down as the owners/applicants come in crying financial woes.

Commissioner Mueller said it would be helpful to clarify the definition of fast food in the retail setting.

PM Rowe stated that the definition now is implied and hinges on the parking requirements.

Commissioner Mueller said it would be helpful if the item were return to a future meeting with clear guidelines available, noting the need for definition of fast food and a decision on the numbers of eating establishments permissible at the site.

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO CONTINUE THE MATTER TO THE MAY 13, 2003 PLANNING COMMISSION MEETING. THE MOTION PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; WESTON WAS ABSENT.

Commissioner Engles was excused at 10:20 p.m. due to a conflict with the next item of business.

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7.a)MMP-03-01:

NATIVE DANCER-QUAIL MEADOWS

A request for Residential Development Control System (Measure P) building allocations for Fiscal Year 2004-2005. The project consists of 6 residential dwellings on a 7 acre site located on the west side of Santa Teresa Blvd. on the north side of Native Dancer Dr.

7.b)MMP-03-02:

DEWITT- MARQUEZ/GLU HAICH

A request for Residential Development Control System (Measure P) building allocations for Fiscal Year 2004-2005. The project consists of 4 residential dwellings on a 2 acre site located on the west side of Dewitt Ave. approximately 300 ft. north side of the Spring Ave./Dewitt Ave. intersection.

PM Rowe explained that these two projects are part of the final competition for FY 2004-05 and that there are two projects under consideration at this time – both having a score of 148 points. He continued that the Commissioners can react to a potential decision by :

- a) having staff reevaluate and rescore the projects
- b) consider allocations to both projects

Commissioner Mueller said there is a concern that if allocations are given to both projects, there will be no competition in 2005-06, particularly if the number of total allocations are reduced.

Chair Acevedo opened the public hearing.

Cynthia Bunch (no address given), told Commissioners the project is ‘right next to my house’, reminding that she had already spoken on the retaining wall and the instability of the soil. She ‘strongly suggested’ that the Commissioners take the suggestion of a prior speaker regarding the 10-year bond to protect existing homes.

Scott Schilling, 16060 Caputo Dr., said the project is ‘flexible on the allocation numbers, and can phase in almost any thing’. He continued that if any allocations are available on the West side of Monterey, he would like them for this project.

Dan Gluhaich, P. O. Box 1767, said as the developer, he is willing to cooperate and work with the City. He indicated that the soils report is done and a full EIR is being completed.

Commissioner Benich reminded that the price range of the homes is required, and that is missing in the application. Mr. Gluhaich replied the dwellings are proposed to sell for \$699,000 - \$799,000.

With no others to address the matter, the public hearing was closed.

Discussion ensued regarding possible ways of distributing the allocations.

Chair Acevedo suggested the Commissioners accept the scores as presented and accept staff recommendations for the allocations when finalized.

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CHAIR ACEVEDO MOVED TO CONTINUE THE MATTER TO THE APRIL 22, 2003 MEETING TO AMEND THE RESOLUTION TO INCLUDE APPROVAL OF THE FINAL PROJECT SCORES, WITH THE MATTER TO BE PLACED ON A CONSENT CALENDAR. THE MOTION WAS SECONDED BY COMMISSIONER MUELLER AND CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: ENGLES, WESTON.

Commissioner Engles returned to the meeting at 10:30 p.m.

Commissioner Mueller was excused at 10:30 p.m.

8)ZA-03-04:

**CITY OF M.H.-
ZONING TEXT
AMENDMENT/
STREET
FRONTAGE**

A proposed amendment to Section 18.04.245 of Chapter 18.04 of the Morgan Hill Municipal Code modifying the definition of a lot with respect to street frontage.

PM Rowe reported a request to table the item.

Chair Acevedo opened the public hearing.

With no one present wishing to address the matter, the public hearing was closed.

COMMISSIONERS LYLE/ESCOBAR MOTIONED TO TABLE THE ITEM. THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, ENGLES, LYLE; NOES: NONE; ABSTAIN: NONE; ABSENT: MUELLER, WESTON.

Commissioner Mueller returned at 10:32 p.m.

OTHER BUSINESS:

**9)MULTI-
FAMILY
VACANCY RATE
REPORT**

PM Rowe informed that this is an informational item only. Commissioners noted that the reason for this quarterly (apartment) vacancy rate being higher is that the LaCrosse Apartments has a much higher than usual vacancy rate, thus skewing the numbers.

COMMISSIONERS LYLE/MUELLER MOTIONED TO ACCEPT THE REPORT AND CAUSE IT TO BE FORWARDED TO THE CITY COUNCIL. THE MOTION PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; WESTON WAS ABSENT.

ANNOUNCEMENTS:

PM Rowe reported that the Downtown Task Force final recommendations would be discussed at the next meeting. It was noted that Commissioners Acevedo, Engles and Lyle had been active with the committee.

Commissioner Mueller reported on the Burrowing Owl Committee activity, stating that the study is complete. Questioned about the recent litigation regarding the City's

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mitigation of the Burrowing Owl, Commissioner Mueller said he would not comment on the litigation, but noticed that the litigatee likes the completed study. He continued by explaining that a 'novel approach for mitigation' evolved as a result of the study.

Commissioner Benich said that the most recently scheduled meeting of the Coyote Valley Development Task Force had been cancelled.

ADJOURNMENT: There being no further business, Chair Acevedo adjourned the meeting at 10:36 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk

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